

Attorney Docket No.: **KBI-0022**
Inventors: **Ranganathan, Natarajan**
Serial No.: **10/803,211**
Filing Date: **March 18, 2004**
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REMARKS

Claims 1-13 are pending in this application. No new matter has been added. Applicant is respectfully requesting reconsideration of the restriction requirement in view of the following remarks.

The pending claims have been subjected to a Restriction Requirement under 35 U.S.C. §121 as follows:

Group I, claims 1-5 and 13, drawn to a composition;

Group II, claims 6-10 and 12, drawn to a method for inhibiting build up of toxins in a subject; and

Group III, claim 11, drawn to a method for restoring GI health.

The Examiner acknowledges that Inventions I:II and I:III are related as product and process of use; however, it is suggested these groups are distinct because the method for inhibiting toxin build up could be practiced with taurine and burdock root and the method for restoring GI health could be practiced with colostrum. Further, it is suggested that groups II and III are different inventions which are not connected in design, operation and/or effect. As such, it is suggested the search for each of the inventions is not co-extensive particularly with regard to the literature search. The Examiner acknowledges that were Applicant to elect claims directed to the product, and the product claim were subsequently allowed, withdrawn process claims that depend from or otherwise include all limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP §821.04. Applicant is required to elect one of the Groups to be examined. Applicant respectfully requests reconsideration of this restriction requirement.

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MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

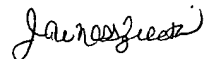
The composition claims of Group I are drawn to a probiotic bacterium which reduces creatine and BUN levels in a subject. The method claims of Groups II and III encompass all of the technical features of said composition and therefore a search of the relevant prior art for a bacterium which meets these criteria will inherently reveal references that disclose the use of such a bacterium for inhibiting build up of toxins and metabolic wastes of undesirable bacteria in a subject and the use of such a bacterium for restoring and maintaining GI health. As the phenotypic criteria of the bacterium of Group I claims is co-extensive with the phenotypic criteria of the bacterium used in the methods of Group II and III claims, no serious burden would be incurred by the Examiner in searching and examining together claims of Groups I-III. In contrast, the prosecution of each of these inventions separately will pose a substantial economic burden on Applicant. Therefore, reconsideration of this restriction requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicant hereby elects to prosecute Group I, claims 1-5 and 13,

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drawn to a composition, classified in class 424, subclass 234.1,
with traverse.

Respectfully submitted,



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Date: **March 7, 2005**

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